

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In re)	
)	
Telecommunications Relay Services and)	
Speech-to-Speech Services for Individuals)	CG Docket No. 03-123
With Hearing and Speech Disabilities)	CG Docket No. 10-51
Application for TRS Certification to)	
Provide IP Captioned Telephone Service)	

To: Chief, Consumer and Governmental Affairs Bureau,
Internet-based TRS Certification Application

**APPLICATION OF MIRACOM USA, INC. FOR CERTIFICATION
TO PROVIDE IP CAPTIONED TELEPHONE SERVICE**

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**APPLICATION OF MIRACOM USA, INC. FOR CERTIFICATION
TO PROVIDE IP CAPTIONED TELEPHONE SERVICE**

Miracom USA, Inc. (“Miracom” or “Company”), by counsel and pursuant to the Commission’s January 11, 2008, declaratory ruling in this proceeding¹ and FCC Rule Sections 64.604, 64.605 and 64.606 (47 C.F.R. §§ 64.604, 64.605 and 64.606), respectfully submits this application for certification to provide Internet Protocol Captioned Telephone Service (“IP CTS”). Because the proliferation of new and innovative forms of telecommunications relay service (“TRS”) is consistent with federal law and Commission regulations and has been determined to be in the public interest, Miracom respectfully requests expeditious review and grant of this application.

FCC Rule Section 64.606, as amended, governs FCC consideration of Internet-based TRS certification applications. Pursuant to that rule, an entity desiring to provide Internet-based TRS and to receive compensation from the Interstate TRS Fund, must submit documentation in

¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379 (Jan. 11, 2007) (“*IP CTS Ruling*”). See also *Public Notice*, CG Docket No. 03-123, DA 08-478, 23 FCC Rcd 2889 (Feb. 28, 2008) (“*Public Notice*”).

the form of a narrative application to the Chief of the FCC's, Consumer and Governmental Affairs Bureau ("CGB"). The application must be captioned "Internet-based TRS Certification Application."

Under Section 64.606, the following information and documents must be set forth in the application:

1. A description of the forms of Internet-based TRS to be provided (*i.e.*, VRS, IP Relay, and/or IP CTS).
2. A description of how the applicant will meet all non-waived mandatory minimum standards applicable to each form of TRS offered, including documentary and other evidence.²
3. A list of (a) individuals or entities that hold 10 percent or more equity interest in the applicant, (b) have the power to vote 10 percent or more of the securities of the applicant, or (c) exercise de jure or de facto control over the applicant, along with (d) a description of the applicant's organizational structure, and (e) the names of its executives, officers, members of its board of directors, general partners (in the case of a partnership), and managing members (in the case of a limited liability company).

² For VRS, unlike for the IP CTS service at hand, the documentation requirement is extensive. For VRS, the rules require documentary evidence to demonstrate that the applicant leases, licenses or has acquired its own facilities and operates such facilities associated with its call centers and employs communications assistants, on a full- or part-time basis, to staff each call center as of the date of the application. That evidence must include – in the case of VRS applicants or VRS providers operating five or fewer call centers within the United States – a copy of each deed or lease for each call center operated by the applicant. If the provider is operating more than five call centers within the United States, a copy of each deed or lease for a representative sampling (taking into account size (by number of communications assistants) and location of five call centers, together with a list of all other call centers the applicant operates that includes the information required by FCC Rule Section 64.604. Where the applicant is operating call centers outside of the United States, it must provide a copy of each deed or lease for each call center outside the country.

A VRS applicant, unlike an applicant for other forms of IP based relay, must also provide a description of the technology and equipment used to support its call center functions – including, but not limited to, automatic call distribution, routing, call setup, mapping, call features, billing for compensation from the TRS Fund, and registration – and for each core call center function, a statement whether such technology and equipment is owned, leased or licensed (and from whom if leased or licensed). Proofs of purchase, leases or license agreements for all technology and equipment used to support call center functions, including a complete copy of any lease or license agreement for automatic call distribution must also be provided.

Inasmuch as Miracom is requesting certification only as an IP CTS relay provider, the VRS documentation requirements are not applicable to this application.

4. A list of the number of the applicant's full-time and part-time employees involved in TRS operations, broken down by at least the following categories: executives and officers; video phone installers (in the case of VRS), communications assistants, and persons involved in marketing and sponsorship activities.
5. Copies of employment agreements for all of the provider's employees directly involved in TRS operations, executives, and communications assistants must be retained for five years from the date of the application and made available upon request to the FCC but need not be included with the application. The provider must also keep a list of the names of all employees directly involved in TRS operations for a five-year period.
6. All applicants must provide in the application a list of all sponsorship arrangements relating to Internet-based TRS, including any associated written agreements.
7. The application must include a description of the provider's complaint procedures.
8. The application must include a statement that the provider will file annual compliance reports demonstrating continued compliance with these rules.

As shown below, Miracom meets all requirements for certification to provide IP CTS as set forth in FCC Rule Section 64.606.³ Accordingly, its application should be granted.

³ FCC Rule Section 64.606 also provides that the Commission has the authority to conduct one or more site visits in the course of evaluating the certification application. The rule further states that VRS and IP Relay providers must notify the Commission of substantive changes in their TRS programs, services, and features within 60 days of such changes, and must certify that the interstate TRS provider continues to meet federal minimum standards after implementing the substantive change. Substantive changes include, but are not limited to: (i) The use of new equipment or technologies to facilitate the manner in which relay services are provided; (ii) Providing services from a new facility not previously identified to the Commission or the Fund administrator; and (iii) Discontinuation of service from any facility. It is unclear if this rule is meant to apply to IP CTS providers as well to the extent there are changes in the IP CTS provider's TRS program from that represented in the certification application. However, the rule provides that Internet-based TRS providers must file with the Commission, on an annual basis, a report demonstrating that they are in compliance with FCC Rule Section 64.604. That report must update the information required for certification and include updated documentation and a summary of the updates, or certify that there are no changes to the information and documentation submitted with the application for certification or the most recent annual report, as applicable. As discussed below, Miracom will comply with these requirements.

I. Form of IP TRS for which Miracom seeks certification.

By this application Miracom seeks certification to offer Internet Protocol Captioned Telephone Service (“IP CTS”). At this time, Miracom does not seek authority to offer any other IP-based relay service.

IP CTS is a text-assisted technology that allows hard-of-hearing individuals to communicate using their own voice and to hear the voice of the other party to a call while viewing a real-time text stream of the other party’s spoken words on specially-equipped telephones and/or personal computers or other electronic devices. The relay aspect of the call is provided by specially-trained Communications Assistants (“CA”) who provide voice-to-text relay service. This service provides “functionally equivalent” relay communications for individuals who are capable of voicing their portion of a conversation, but desire visual confirmation – in the form of the corresponding real-time text stream – of the auditory responses spoken to them over the telephone. IP CTS enables a “normal” two-way conversation to take place between the assisted user and the hearing party.⁴ The voice-to-text relay is virtually transparent to the hearing party.

There are several possible scenarios that can be developed for the provision of IP CTS.⁵ Miracom may develop and offer IP CTS through a combination of internally-developed

⁴ The voice-to-text relay allowed by IP CTS increases the speed of relay from approximately 60 words per minute, common in traditional text relay that depends on a CA to type the hearing party’s responses to the relay user, to 140-200 words per minute, the speed of an unassisted voice conversation between hearing persons.

⁵ The Commission has stated that a service will qualify as IP CTS “as long as it allows the user to simultaneously listen to, and read the text of, what the other party in a telephone conversation has said and the connection carrying the captions between the service and the user is via the Internet rather than the [public switched telephone network].” *IP CTS Ruling*, at ¶ 22. Further, the Commission has declined to specify the manner in which IP CTS must be provided “as long as [the service] meets applicable TRS mandatory minimum standards...and the captions are delivered via an IP network to the user fast enough so that they keep up with the speed of the other party’s speech.” *Id.*

software, hardware, and licensed third-party technology that may include, but not be limited to the following:

- Device-dependent captioned telephone;
- Device-independent web-based IP solutions;
- CTS solution with built-in “IP-softphone;”
- CTS hardware solution interconnected to existing customer-provided equipment.

Initially, Miracom will provide the service using its proprietary REDACTED technology. REDACTED Miracom will initially provide the caption portion of IP CTS service through CAs REDACTED. This is expected to provide more accurate communication than can be achieved with current voice recognition software and to provide sustained voice to hard-of-hearing communication of at least 180 words per minute.

II. Description of how Miracom will meet all non-waived mandatory minimum standards applicable to IP CTS.

A. Miracom will meet all minimum mandatory standards applicable to IP CTS.

Miracom understands that, regardless of the manner in which it provides IP CTS, it will be obligated to comply with all of the rules and regulations applicable to such service that the Commission has promulgated or may promulgate in the future. In addition, Miracom looks forward to actively participating in Commission proceedings regarding (i) changes to the regulatory requirements applicable to IP CTS (as well as to the other forms of TRS the Company may offer in the future), and (ii) determination of the most effective means for promoting the public interest of provision of functionally equivalent communications services to the Deaf/Hard-of-Hearing Community.

In the *IP CTS Ruling*, the Commission indicated that because of the similarities between IP CTS and IP Relay, its mandatory TRS rules will be applicable to IP CTS to the same extent

that they are applicable to IP Relay.⁶ As such, Miracom states below how it will meet all minimum standards applicable to IP CTS:

1. *Communications Assistant Competency Qualifications.* FCC Rule Sections 64.604(a)(1)(i) – (iii)⁷ require that all CAs (a) be sufficiently trained to meet the needs of people who are deaf, hard-of-hearing, or speech-disabled; (b) have competent typing, grammar and spelling skills; (c) be familiar with deaf, hard-of-hearing, and speech-disabled cultures; and (d) have a typing speed of at least 60 words per minute. In addition, TRS providers, such as Miracom, are required to test for compliance with these requirements.

Miracom acknowledges these mandatory minimum obligations and agrees to comply with them. To do so, Miracom and/or its captioning partner(s) will perform pre-hiring evaluations of CAs and operate an extensive training program, which includes all mandatory minimum standards, prior to allowing CAs to handle live TRS calls. Miracom’s agreement with its captioning partner requires that only qualified REDACTED are to be hired as CA captioners. Prior to being released to a call center workstation, each CA must pass examinations for each subject matter covered by the training program REDACTED.

Miracom and its captioning partner(s) will provide regular supplemental training and testing for all CAs. Ongoing training topics are selected based on the following factors:

- Areas of opportunity identified by performance evaluation
- Customer feedback
- New policies or protocol

⁶ See *IP CTS Ruling*, at ¶¶ 29-30. In addition, the Commission also recognizes the similarity between IP CTS and traditional captioned telephone service (“Traditional CTS”) and has stated that minimum standards waived with respect to Traditional CTS will also be waived with respect to IP CTS. *Id.* In either case, the Commission has encouraged TRS providers to offer waived features to the extent it is technically feasible to do so. *Id.* at ¶ 31.

⁷ Section 64.604(a)(1)(iv), which requires TRS providers to ensure that VRS CAs are all “qualified interpreters,” is not relevant to CAs for IP CTS.

- Regular refresher training focusing on a variety of topics

CAs also receive ongoing supplemental training on skills and knowledge necessary to meet or exceed Commission mandatory standards. Training topics include:

- Spelling and grammar
- Confidentiality and ethics
- Deaf culture
- Needs of speech-disabled, late-deafened and hard-of-hearing users
- Handling emergency calls
- Stress management and sensitivity

REDACTED

In addition to regular testing, Miracom ensures the quality of CA work through a quality assurance program that measures CA skills in all IP CTS call types and situations. Miracom trained quality assurance specialists will place *non-billed* scripted test calls to randomly selected CAs each month, using scripts designed to reflect realistic conversations, including personal and business calls. Scripts are also designed to measure distinct call handling skills, including typing speed. Quality assurance teams write scripts that include medical, legal, and technical language, as well as a variety of emotionally charged scenarios to test CAs' spelling, grammar, voicing and detachment skills.⁸

CAs will be observed by managers regularly during which time they must achieve performance metrics in both quality and accuracy. If a CA is not meeting such performance targets, the CA will be placed in an ongoing individual coaching program with his or her manager, in which the CA's progress is closely monitored. See attached REDACTED Exhibit 1.

REDACTED

⁸ Consistent with statutory and regulatory prohibitions, no actual relay calls are recorded or stored for evaluation.

2. *Staying with Calls; Real-Time Transmission.* FCC Rule Section 64.604(a)(1)(v) requires that CAs processing a TRS call must stay with such call for a minimum of ten minutes. FCC Rule Section 64.604(a)(1)(vii) requires that CAs transmit conversations in real time. Miracom ensures that its CAs operate in compliance with these standards. Miracom's IP CTS service transmits conversations in real time and its CA training program and call handling policies specify that CAs shall stay with a call for at least 10 minutes.⁹

3. *Confidentiality; Accuracy; No Intentional Alteration.* FCC Rule Sections 64.604(a)(2)(i) – (ii) prohibit CAs from disclosing the content of relayed conversations and, with limited exception, from keeping records of the content of calls, even where inconsistent with state or local law. CAs are also prohibited from intentionally altering a relayed conversation and, except where illegal under other laws, must relay all conversations verbatim unless requested otherwise. Appropriate measures must be taken to ensure such confidentiality including regulatory compliance training of all CAs, discussed in more detail below.

Miracom ensures, through initial training, supervision and subsequent training that all CAs shall comply with these rules. As a matter of policy, the CAs will be provided with a break room and a lunch room that are separate from the call center area, and CAs are provided with personal lockers (also separate from the call center area) in which they may store their belongings prior to entering the call center area to handle relay calls. Cell phones, tape recorders, personal digital assistants, and all electronic recording devices are prohibited in the call center area. If a manager detects and validates a lapse in confidentiality or a breach in security measures, the employment of the CA responsible for such lapse or breach is subject to immediate termination. Company policy requires CAs to relay calls verbatim, and not alter a

⁹ The requirement to use best efforts to accommodate a consumer's gender preference, FCC Rule Section 64.604(a)(1), is inapplicable to IP CTS.

relayed conversation. To ensure confidentiality and security through the equipment used to support this service, Miracom has adopted the following measures:

- Servers have no on-board memory to collect, save, store or maintain any conversational data.
- Miracom only operates as a conduit for the conversation via a CA to caption the conversation to the caption user.
- The only shared link for the conversation is from the initiated caller to the intended receiving party thru the CA in the call center.
- All of the CAs will go thru extensive compliance training that addresses security and confidentiality with zero tolerance for non-compliance.
- To record, save or disseminate information from any captioned call at any time is strictly prohibited.

4. *No Refusal of Calls; Type of Calls Handled; Denial for Declined Credit.* FCC Rule Sections 64.604(a)(3)(i) – (iii) prohibit CAs from refusing calls or limiting the length of calls. Providers such as Miracom shall be capable of handling all types of calls, except where credit authorization has been denied or where the Commission has determined they need not be accepted.

Miracom ensures, through initial training, supervision and subsequent training that all CAs operating under its employ shall comply with these rules. Miracom CAs may not refuse calls nor limit the length of call. Miracom will handle sequential calls and three way calls. Miracom will handle all types of calls except where credit authorization has been denied or where the Commission has determined they need not be accepted. In that connection, the pay per call requirement is currently waived for IP CTS. Various other types of calls, text to voice, voice to text, VCO, two line VCO, VCO to TTY, VCO to VCO, HCO, two line HCO, HCO to TTY and HCO to HCO are either waived or inapplicable to IP CTS. Call release and speed dialing are also inapplicable to IP CTS.

5. Voice Mail; Interactive Menus. FCC Rule Section 64.604(a)(3)(vii) requires that TRS providers alert end-users to recorded messages and interactive voice response systems via a “hot key” on the CA’s terminal. Section 64.604(a)(3)(viii) of the Commission’s rules requires that providers provide answering machine and voice mail retrieval to end-users. The hot key provision is inapplicable to IP CTS since the conversation occurs in real time. Miracom’s CAs simply advise the hard-of-hearing consumer in real time of the existence of the recorded messages, voice mail systems and interactive voice response system.

6. Emergency Call Handling. The Company’s service supports E911 calls. 911 traffic is routed over the caller’s voice carrier with captions supplied to the consumer the same as for every other call. Where callers use a landline phone, E911 service is supplied via the landline carrier. In the case of personal electronic and mobile devices, Miracom will undertake to provide location information to the appropriate public safety answering point as follows.

- REDACTED

7. Speed of Answer. FCC Rule Section 64.604(b)(2)(i) requires that TRS providers ensure adequate staffing and facilities to provide users with “efficient access under projected calling volumes requirements,” such that the likelihood of a user receiving a busy response from the network as a result of CA unavailability is functionally equivalent to what a voice caller would experience in similar circumstances on the voice telephone network. Section 64.604(b)(2)(ii) sets forth the following speed-of-answer requirements: 85 percent of all calls shall be answered within 10 seconds by any method that results in the caller’s call being placed, not on hold or in queue, measured on a daily basis (and including abandoned calls in the calculation).

Miracom will staff its call center(s) to meet the 85 percent/10 second requirement, including abandoned calls in the calculation. Miracom will monitor answer speed on a real time hourly basis and adjust staffing as necessary to meet the required service level. This will allow Miracom to evaluate on an ongoing basis time-of-day and day-of-week traffic patterns for any range of dates and times and for each type of modality (e.g., web, wireline, or wireless-based), so that CAs can be scheduled appropriately. Thus “on-the-fly” adjustments to staffing can be made as needed.

In addition, a certain amount of excess capacity will be integrated into all CA schedules, to help prevent unforeseen surges in demand or unexpected CA absences (e.g., due to illness) from adversely impacting speed-of-answer levels. This excess capacity also has the benefit of improving speed-of-answer times overall, thereby resulting in an even more positive end-user experience. Miracom also takes into account known external events that could influence demand on a given day, such as holidays.

Miracom’s facilities will be configured to provide a P.01 grade of service.

8. *Twenty-Four Hour Operation.* FCC Rule Section 64.604(b)(4) require that TRS providers operate 24 hours per day, every day, and that they have redundant features, including uninterruptible power for emergency use. Although this rule does not require non-mandatory relay services such as IP CTS to be provided on a 24-hour basis, Miracom nevertheless intends to make the service available on a 24-hour basis as soon as demand so warrants. With respect to system redundancy and uninterruptible power, Miracom’s call center facilities are located in 24-hour-per-day monitored facilities with redundant power, multiple network connections, fire suppression systems, and environmental control systems

9. Technology; Caller ID. FCC Rule Sections 64.604(b)(5) and (6) provide that TRS facilities utilizing SS7 shall be subject to Calling Party Telephone Number rules, and that where a TRS facility is capable of transmitting any calling party identification information to the public telephone network, it must pass through the number of the TRS facility, 711, or the calling party's 10-digit number. Miracom agrees to comply with these rules to the extent they are applicable to the Company's IP CTS offerings.

10. Complaints. FCC Rule Sections 64.604(c)(1)(i) and (ii) require TRS providers to maintain a log of consumer complaints, and maintain the log until the next application for certification is granted. The log shall contain (i) the date of the complaint, (ii) the nature of the complaint, (iii) the date of resolution, and (iv) the nature of the resolution. On or before July 1 of each year, providers shall submit summaries of logs indicating the number and summary of complaints received during the previous 12-month period ending May 31 of the each year. Miracom will comply with this rule.

11. Contact Person. FCC Rule Section 64.604(c)(2) requires interstate TRS providers to submit to the Commission a contact person or office for TRS consumer information and complaints about the TRS provider's service, including the (i) name and address of the office that receives complaints, grievances, inquiries, and suggestions; (ii) voice and TTY telephone numbers, fax number, email address, and web address; and (iii) the physical address to which correspondence should be sent. Miracom's contact person for consumer information and complaints is:

Chuck Owen, Vice President of Business Development
Miracom USA, Inc.
2913-C Saturn Street
Brea, California 92821
Email chuckowen@innocaption.com
Telephone: (714) 985-9449

Commission correspondence to Miracom should be addressed to:

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8300 Greensboro Drive, Suite 1200
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12. *Public Access to Information; Consumer Outreach.* FCC Rule Section 64.604(c)(3) requires TRS providers to undertake education and outreach efforts to educate the public about TRS, including to members of the Deaf/Hard-of-Hearing Community and to the general public. Miracom's business is designed to serve the TRS market exclusively, and therefore such Miracom's outreach efforts are directly related to Miracom's success in the marketplace.

Miracom will actively engage in outreach activities with the Deaf/Hard-of-Hearing Community on many fronts. The Company will have a visible presence at numerous national, regional, and local events and conferences for the Deaf/Hard-of-Hearing Community. Such presence will include outreach booths, spokespeople, demonstrations, training sessions, and financial sponsorships. Miracom will use its web site to promote its service REDATED to maintain an active "web presence."

The Company will be actively involved with the deaf and hard-of-hearing community. It will become a member of all applicable deaf and hard-of-hearing organizations. In addition to traditional outreach activities, the Company will foster a sense of community by inviting comments from deaf and hard-of-hearing relay users. Consumers will be enrolled in beta testing of new relay features and in providing feedback on such innovations. Miracom intends to affirmatively recruit deaf and hard-of-hearing persons for all levels of staffing. In addition, all

hearing employees involved in its relay operations will be offered cultural training and introductory classes in sign language.

13. *Rates and Jurisdictional Separation of Costs.* FCC Rule Section 64.604(c)(4) imposes certain requirements regarding rates. The Commission has determined that IP Captioned Telephone service is interstate in nature and thus compensated via the Interstate Telecommunications Relay Service Fund (“TRS Fund”). By filing this application, Miracom seeks to be compensated entirely through the TRS Fund, and therefore its services will be provided at no cost to Miracom’s end-users. Each month, Miracom will report all of its “conversation minutes of use” to the TRS Fund Administrator, and the Administrator will compensate Miracom based upon the rates established by the Commission.

14. *TRS Fund Administrative Issues.* FCC Rule Section 64.604(c)(5)(iii) provides that TRS providers shall provide the TRS Fund Administrator with true and accurate information necessary to determine the TRS Fund’s annual revenues requirements, and comply with a variety of TRS Fund rules, including rules designed to ensure that providers calculate monthly minutes of use accurately. Miracom agrees to comply with all such obligations applicable to TRS providers and to accurately file with the Commission an annual “Telecommunications Reporting Worksheet.”

15. *Substantive Changes.* FCC Rule Section 64.605(f)(2) requires that certificated TRS providers notify the Commission of substantive changes in their TRS programs, services and features within 60 days when such changes occur, and must certify that they are in continued compliance with federal minimum standards after implementing such substantive changes. Miracom acknowledges and agrees to comply with this obligation.

16. *Annual Report.* FCC Rule Section 64.605(g) requires that certificated TRS providers file with the Commission, an annual report providing evidence that they are in compliance with Section 64.604 of the Commission’s rules. Miracom acknowledges and agrees to comply with this obligation. In addition, the Commission requires TRS providers to file annual reports setting forth their efforts to meet waived mandatory minimum standards for their various service offerings, and Miracom agrees to file such a report with respect to IP CTS (in addition to its other TRS offerings).

17. *No Requirement to Meet Waived Minimum Standards.* In the *IP CTS Ruling*, the Commission stated that the mandatory minimum standards inapplicable to, or waived with respect to, IP Relay and Traditional CTS are also inapplicable to, or will be waived with respect to, IP CTS.¹⁰ Miracom acknowledges that its IP CTS offering will not be required, at this time, to meet the following requirements:

- CA gender preference (Section 64.604(a)(1)(vi)).
- Handling calls in ASCII and Baudot formats (Section 64.604(b)(1)).
- Call release.
- Speech-to-speech relay service (and associated CA skill requirements).
- Hearing carry-over (“HCO”) and VCO services (and associated CA skill requirements).
- Outbound 711 calling.
- Emergency call handling (Section 64.604(a)(4)).
- Equal access to interexchange carriers (Section 64.604(b)(3)).¹¹
- Pay-per-call (900) service (Section 64.604(a)(3)(iv)).
- Three-way calling.
- Speed dialing.

¹⁰ *IP CTS Ruling*, at ¶¶ 29-30.

¹¹ This requirement is permanently waived as long as the provider offers free long distance to its customers. *See IP CTS Ruling*, at n. 101. Miracom agrees not to charge for long distance to its customers, but acknowledges that the underlying carrier supplying telephone service to the consumer may charge for such service.

- CA ASL competency, oral-to-type testing, and refusal of sequential calls.¹²

Notwithstanding these waivers, Miracom may choose to offer certain of these functionalities, and to train its CAs according to certain of these skill requirements, to the extent possible.

18. *Additional Commitment.* Miracom agrees to comply with any and all orders, regulations, or obligations lawfully promulgated from time to time by the Commission that are applicable to providers certificated by the Commission to provide IP CTS generally, or to Miracom specifically. To the extent that existing or future waivers of Commission rules expire, Miracom agrees to promptly to meet such requirements.

B. Procedures for Ensuring Compliance.

Miracom has adopted a compliance plan to assure compliance with the Commission's Rules governing IP CTS and its policies applicable to marketing and outreach activities. Essentially the plan requires Miracom to appoint a compliance officer prior to undertaking relay operations. The compliance officer will review for regulatory compliance company policies and practices, including promotional and outreach activities to assure compliance with the Commission's requirements. In addition, the compliance officer will receive and review regular reports designed to identify anomalous calling patterns that may indicate abuse of the service. A copy of Miracom's Compliance Plan is attached as Exhibit 2.

¹² *IP CTS Ruling*, at ¶ 30, n. 105. Despite the waiver of certain of these CA requirements, Miracom fully intends to maintain its high quality standards of operation for *all* of its CAs. As described above, new and existing CAs will be thoroughly trained in the provision of relay services generally, and IP CTS specifically. Additionally, basic telephone system training, technical awareness of the service platform, and IP CTS procedures, including "oral-to-text" relay testing, will be provided to all CAs.

III. Introduction and Background on Miracom.

Miracom is incorporated under the laws of the State of California. Its principal offices are located at 2913-C Saturn Street, Brea, CA. The Company has no corporate parents or subsidiaries.

The following individual is the sole corporate director of the Company: Joseph (Sungho) Lee. Owners of 10 percent or more of the corporate stock of Miracom are REDACTED. No other party has de jure or de facto control of the applicant. The following individuals are executives of Miracom involved in its TRS operations:

Joseph (Sungho) Lee, Chief Executive Officer and Chief Financial Officer.

Chuck Owen, Vice President of Business Development.

REDACTED

Mr. Owen will manage the Company's marketing and sponsorship activities. As an IP Captioned Telephone provider, the Company has no video phone installers. The Company's REDACTED captioning service will initially be provided under contract by REDACTED.

As a startup provider, the Company currently has seven employees dedicated to its IP CTS program. Additional employees will be hired as the Company ramps up its provision of service. The Company will retain copies of employment contracts for its employees and make them available for Commission inspection upon request.

Miracom's REDACTED service will provide virtually simultaneous voice and caption service to a smart phone screen. REDACTED will thus allow the user the same mobility that hearing persons enjoy. There will be no need for multiple devices, or talking through a third party relay provider. The service will be transparent for the hearing caller and operate in real time for the deaf or hard-of-hearing user. The deaf or hard-of-hearing user will be able to hear

the hearing caller's voice to the extent possible and read text of the hearing caller's part of the conversation.

The Company will provide a private phone number to users for the captioned service at no charge. The user will be able to make and receive calls using the number provided in the same way a hearing person does now. Neither the hard-of-hearing user nor the hearing party will be required to call directly to the caption center to activate the captioning service.

The caption service will be provided via high-speed packet data transmission. REDACTED The service supports calls on 3G or 4G networks as well as WiFi. The service will provide the user with voice mail for inbound calls in case the user is unavailable. The service will provide the user Caller ID where it is transmitted. The service supports conference calling and E911 service. REDACTED.

The Company will initially operate from one captioning center REDACTED. As demand for its service increases, the Company will open additional captioning centers. Additional information about Miracom is available at www.innocaption.com.

IV. Sponsorship Agreements.

The Company has no sponsorship agreements at this time.

V. Complaint Procedures.

Miracom's procedure for handling complaints includes analysis of the complaint to determine if it is technical or operational in nature. Once the nature of the complaint is identified, information is collected and, in the case of an identified individual who may be the object of the complaint, an interview between the employee and his or her manager ensues to ascertain the facts related to the complaint. The customer making the complaint receives a reply from Miracom summarizing the findings and closing the issue once it is formally resolved.

Complaints will be responded to promptly, and escalated as needed until resolved. All complaints are summarized in the complaint log and include, among other things, the nature of the complaint, action taken, and the date resolved.

More importantly, Miracom strives to avoid complaints before they happen. To do this, Miracom offers customer service through toll-free voice and TTY hotlines as well as online forms made available on the Company's web portal; users may contact Customer Service to get help or ask questions about services before filing a complaint. Calls and online submissions will be taken by customer service specialists, who will then work with such customers to address any issues raised. In addition, Miracom will make available a variety of online support resources, such as Frequently Asked Questions, to address those end-users looking for immediate answers. Finally, Miracom welcomes customer suggestions for ways to improve its services, and the Company seriously considers these recommendations because they may help avoid or alleviate future problems or complaints.

VI. Areas in Which Services Will Differ from the Mandatory Minimum Standards.

Miracom's services will not differ from the non-waived mandatory minimum standards the Commission has established. If new or differing minimum standards are established, Miracom will either conform to those standards or apply to the Commission for a waiver of the particular standards.

VII. Evidence that Services Differing from Mandatory Minimum Standards Do Not Violate Applicable Mandatory Minimum Standards.

Not applicable.

VIII. Notification to TRS Fund Administrator.

Pursuant to Section 64.604(c)(5)(iii)(G) of the Commission's rules and as stated by the Commission specifically with respect to IP CTS in the *Public Notice*,¹³ Miracom will notify the TRS Fund Administrator of its intent to participate in the TRS Fund as an IP CTS provider by notice delivered at least 30 days prior to submitting reports of IP CTS minutes of use. Upon receipt of certification from the Commission, Miracom will further advise the Administrator of the Company's updated certification status.

IX. Conclusion.

Miracom has provided the Commission herein with a full discussion of its meeting of the mandatory minimum standards of operation for IP CTS. The Company affirms its commitment to meet all obligations established by the Commission while providing the highest-quality TRS offerings in the industry. As detailed in this application, Miracom intends to comply fully with all mandatory minimum standards of operation applicable to IP CTS, and it is plainly evident that Miracom possesses the operational, technical, and managerial qualifications to provide IP CTS. The requested certification would be in the public interest, and Miracom therefore respectfully requests that the Commission grant the Company's certification to allow it to provide IP CTS.

¹³ *Public Notice*, at 3.

Respectfully submitted,

MIRACOM, INC.

By: _____/s/_____
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November 23, 2011

**APPLICATION OF MIRACOM USA, INC. FOR CERTIFICATION
TO PROVIDE IP CAPTIONED TELEPHONE SERVICE**

Exhibit 1

REDACTED

**APPLICATION OF MIRACOM USA, INC. FOR CERTIFICATION
TO PROVIDE IP CAPTIONED TELEPHONE SERVICE**

Exhibit 2

MIRACOM COMPLIANCE PLAN

MIRACOM USA, INC.

**Federal Communications Commission
Regulatory Compliance Plan**

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ATTACHMENTS

TAB A: 47 U.S.C. § 225 – TRS Statutory Provisions

TAB B: 47 C.F.R. § 64.601 et seq. – TRS Rules

TAB C: Relevant TRS Orders

TAB D: Compliance Review Request Form

FCC REGULATORY COMPLIANCE PLAN

Miracom USA, Inc. ("Miracom" or the "Company"), is committed to full and complete compliance with the rules and regulations of the Federal Communications Commission ("FCC" or "Commission"). This Regulatory Compliance Plan ("Compliance Plan") sets forth the appropriate standards of care that Miracom has adopted and implemented to ensure FCC regulatory compliance, specifically with reference to its reimbursement from the TRS Fund Administrator for its provision of Internet Protocol Captioned Telephone Relay Service ("IP CTS") and future relay offerings, pursuant to Section 225 of the Communications Act of 1934, as amended ("Communications Act" or "Act"), and Part 64.601 *et seq.* of the Commission's rules in Title 47 of the Code of Federal Regulations.

Compliance Policy

Scope

Miracom must be in full compliance with the Communications Act, *see* 47 U.S.C. §§ 151 *et seq.* Miracom also must be in full compliance with the Commission's rules, *see* 47 C.F.R. 64.601 *et seq.*, and Commission orders and rulings that are adopted and released from time to time (all of which are referred to herein as the "Commission's Rules" or the "FCC's rules"). The FCC's rules are available and relevant TRS rules and orders are found at Tabs A-C.

Elements of the Policy

The Compliance Plan contains the following elements:

- Compliance Review Process and Escalation Procedures
- Mandatory Regulatory Training
- Acceptable Use Acknowledgement for Customers
- Compliance Review of Minute Submissions to TRS Administrator
- Board Reporting
- FCC Compliance Support
- Tracking and Preventing Potential Improper Use of Relay Calls

This Compliance Plan sets forth and explains the Commission's rules governing Miracom's operations, in particular its obligations as a provider of IP CTS under section 225 of the Communications Act, 47 U.S.C. § 254 and Part 64.601 *et seq.* of the Commission's rules. The Compliance Officer shall ensure the Compliance Plan is kept up to date in all material respects. The Compliance Officer will be appointed by the Board of Officers ("Board") and may be an

employee of the Company, a hired consultant, or counsel to the Company as determined by the Board.

Employee Recipients

The Compliance Plan shall be provided to all current Miracom employees and to new hires as part of the hiring process.

Compliance Review Process and Escalation Procedures

Duties of Compliance Officer.

The Compliance Officer has responsibility for implementation of this Compliance Plan. The Compliance Officer's specific responsibilities include: designing and conducting compliance training for all Company managers; monitoring and responding to changes in the Company's business that may impact compliance issues, including review and evaluation of programs and activities to ensure that Company activities are consistent with applicable laws, regulations and contracts to which the Company is subject, and policies the Company has adopted. The Compliance Officer shall make an annual submission to the Board concerning the effectiveness of the Company's Compliance Plan setting forth any deficiencies uncovered, remedial actions taken and recommendations for further remedial action. The Compliance Officer will also submit a quarterly report to the Board including any matters raising a compliance concern, active major marketing and outreach programs, and the status of any governmental inquiries or investigations.

The Compliance Officer shall have authority to monitor ongoing Company activities and have access to all Company files and documentation relevant to his duties. This includes the right to interview Company employees in connection with investigations of potential violations of: (1) Company policies, (2) agreements to which the Company is a party, or (3) applicable law or regulations.

The Compliance Officer reports to the CEO and the Board.

Any employee of the Company shall be entitled to consult with the Compliance Officer concerning compliance issues. All employees shall be made aware of this opportunity upon hire and shall be provided a copy of the Company's Compliance Plan. Such consultations shall be treated confidentially by the Compliance Officer subject to the Compliance Officer's fiduciary obligations to the Company. The Compliance Officer will maintain a means whereby employees may anonymously report matters that may raise compliance issues. The Company shall not retaliate against any employee raising a compliance issue, nor tolerate retaliation against an employee raising a compliance issue.

Pre-program Consultation and Review.

The key to a successful compliance program is coordination and sharing of information. To that end, the Compliance Officer will be available for consultation at the planning stages of potential Company programs to minimize potential issues by both email and telephone for all

departments. In addition, the Compliance Officer will meet routinely with key sales, marketing and outreach personnel. The Compliance Officer will also be copied on all material marketing sales and outreach correspondence to keep the Compliance Officer advised on the progress of outreach, sales and marketing programs. For the purpose of this Compliance Plan material programs are programs which are expected to (1) last 28 days or longer, (2) result in the expenditure of \$5,000 or more of Company funds, (3) give or award anything of value to consumers, or (4) involve relay calls (i) made by or on behalf of the Company or (ii) made to the Company or any agent or contractor of the Company from consumers or Company employees, agents, or contractors.

Programs Requiring Compliance Review.

The following programs, elements thereof, or other identified matters will require compliance review and sign off without regard to the originating department:

- Any Company initiated customer contact programs, including contact by mail, email, or telephone, including review of prepared scripts for such programs.
- Any sales, marketing or outreach program.
- Any program involving the use of a third party call center.
- Any production of marketing, outreach, sales or promotional collateral, including video or VLOG production.
- Any press or news release.
- Any program or operation which involves the systematic internal use of relay services by company employees or third party agents or vendors.
- Any material change in policy concerning the handling or routing of relay calls, including call center procedures.
- Any release of call or customer data outside the company.
- Any material change in the handling of customer complaints or customer care operations.
- Any posting of VLOGs or video on Company websites.
- Any material company sponsorships or sponsorship programs of third-party organizations or events.
- Any substantial change to a previously reviewed item.
- Entering into a substantial contractual obligation in excess of \$50,000, or which is determined by the CEO or Board to have potential regulatory concern.

Failure to obtain required compliance review will subject any employee to disciplinary action.

Method for Obtaining Compliance Review.

Review of all matters requiring a compliance review will be initiated by the submission to the Compliance Officer in writing (including electronically) of a Compliance Review Request ("Request"), in a form substantially equivalent to that attached hereto as Tab D.

In the case of written collateral, copies are to be provided with the Request. In the case of scripts or talking points, full copies are to be provided. VLOGs or other video postings must be

accompanied by a written script. Spanish collateral or postings must be accompanied by an English translation.

Review Procedure.

The Request should be submitted as far in advance of implementation as possible, and at least one week in advance of implementation. If an expedited review is necessary, it must be indicated on the Request. Every effort will be made for timely review of an Expedited Request.

If the Compliance Officer determines there is no compliance issue present, he will clear the Request via email with a copy to the CEO. The email will include a copy of the Compliance Review Request.

If the Compliance Officer determines that the Request presents a not insubstantial regulatory risk, he will work with the requestor to minimize or eliminate the risk. If risk cannot be eliminated, the Compliance Officer will forward the Request and his evaluation to the CEO for review. The CEO will independently evaluate the risk and report his recommendations to the Compliance Officer. If the Compliance Officer and the CEO agree that significant risk exists, the proposed program, program element or activity shall be disapproved. If the Compliance Officer and the General Counsel disagree concerning whether significant risk exists, the program shall be referred to the Board for a final decision with appropriate input from legal counsel.

Follow-Up.

Compliance Review Requests will be filed by the Compliance Officer with a tickle date of no more than 90 days assigned for a status check to determine whether the activity, program, or program element is still operative. A written record of the status check shall be maintained.

Anonymous Compliance Hotline.

The Compliance Officer must maintain a hotline or other means that enables employees to anonymously provide comments, complaints, or suggestions regarding Miracom and its operations. The Compliance Officer shall also treat complaints of regulatory violations confidentially and Miracom will not discharge, demote, suspend, threaten or harass, or in any manner discriminate against, any employee with respect to good faith reporting of complaints regarding violation of regulatory requirements.

Mandatory Regulatory Training

To ensure that the entire Miracom team understands and commits to satisfying statutory and regulatory obligations, Miracom provides a mandatory training program for all employees. The goal of the training program is to ensure that all employees have a base level understanding regarding the obligations of TRS providers. Miracom tailors trainings to the specific positions that employees hold in the company. As statutory and regulatory obligations change, Miracom will revise its training materials accordingly.

A variety of methods are used to train, including power point presentations, virtual meetings and other activities. Additionally, Miracom issues frequent Training Memos that address topics such as new and updated call procedures, new company policies, reminders of best practices, platform updates, and new products and services between departments.

The Compliance Officer shall maintain a database of all employees, managers, representatives, and third party contractors to track and ensure completion of mandatory compliance training.

Company-Wide Regulatory Training – All new and existing employees must attend a regulatory seminar that addresses, among other things, acceptable use policy and escalation procedures within 90 days of hiring.

Manager Training – Additional training on workplace accommodations, ensuring functional equivalency for deaf staff, and consequences of violations of statutory and regulatory obligations.

Outreach Representative Training – Additional training on acceptable use policy, explanation that violation of policy or abuse of relay service is grounds for termination.

Third Party Contractors – Training on acceptable use policy and other issues relevant to the third party contractor.

Acceptable Use Acknowledgement for Individual Customers and Enterprise Customers

Miracom's core device agreements contain language regarding the Company's acceptable use policy and the ability of Miracom to deny service if known violations of such policy exist.

Compliance Review of Minutes

Proper Submission of Minutes to TRS Administrator. If Miracom determines – following an investigation – that a call should not be billed, this conclusion is forwarded to accounting to remove the call from the monthly minute submission.

Categorical Tracking of TRS Calls. Miracom will track and disclose to the TRS Administrator – to the extent possible and where data is available – whether relay minutes are generated from categories of use that may raise a regulatory concern. In the course of this compliance effort, Miracom will not review calls for content. Except as required by the FCC or the TRS Administrator, Miracom will not submit to the TRS Administrator – or make publicly available – any information that shows the calling history or patterns of individual TRS users.

Review of Traffic Patterns. Miracom will review monthly minute submissions to the Administrator for anomalous calling patterns potentially indicating misuse or abuse of the service. Anomalous calling patterns will be investigated by the Compliance Officer and indications of improper use will be referred to the FCC's Office of Inspector General or other office as may be specified by the FCC.

New Board Reporting and Creation of Regulatory Sub-Committee

The Board will meet quarterly with Senior Management to discuss compliance issues. At the meeting, Senior Management will: 1) review the prior three months' minute submittals; 2) summarize updates on programs reviewed and approved or rejected in the prior three months along with other pertinent details, for example, the results of traffic pattern reviews; and 3) inform the Committee of any known investigations or breaches of Miracom's compliance and acceptable use policies and the corrective steps being taken by Miracom. For objectivity and independence, Miracom's Compliance Officer – and as needed, outside regulatory counsel – will independently brief the Board on any issues and on its the effectiveness of the Company's compliance policies on a semi-annual basis.

Compliance Support

Miracom will provide adequate resources to ensure the Compliance Officer can fulfill the duties enumerated in this Compliance Plan. Such resources shall include access to any Miracom employee or officer and reasonable access to and funding, as the Compliance Officer deems necessary.

Tracking And Preventing Improper Relay Calls

If Miracom reasonably believes that one or more of its employees have engaged in conduct that violates federal or state laws or FCC rules, the Compliance Officer – in conjunction with Human Resources – will take the following steps as appropriate:

- Temporarily suspend the individual(s);
- Fully investigate the facts and circumstances of the matter, including discussions with the accused, as well as supervisors, peers, and subordinates;
- Conclude whether a violation occurred;
- In the event a violation occurred, take remedial actions – after discussions with Human Resources – which may include suspension, termination, and referral to the appropriate governmental authorities.

In addition, where Miracom determines that minutes were billed inappropriately to the TRS Fund, it will advise the TRS Fund administrator at its earliest opportunity through the submission of a revised or corrected billing submission.

TAB A

**TRS Statutory Provisions –
47 U.S.C. § 225**

47 U.S.C. § 225

(a) Definitions

As used in this section--

(1) Common carrier or carrier

The term "common carrier" or "carrier" includes any common carrier engaged in interstate communication by wire or radio as defined in section 153 of this title and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 152(b) and 221(b) of this title.

(2) TDD

The term "TDD" means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

(3) Telecommunications relay services

The term "telecommunications relay services" means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

(b) Availability of telecommunications relay services

(1) In general

In order to carry out the purposes established under section 151 of this title, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

(2) Use of general authority and remedies

For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions

of this subchapter with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this chapter by a common carrier engaged in interstate communication.

(c) Provision of services

Each common carrier providing telephone voice transmission services shall, not later than 3 years after July 26, 1990, provide in compliance with the regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations--

(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) of this section and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d) of this section; or

(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) of this section for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) of this section for such State.

(d) Regulations

(1) In general

The Commission shall, not later than 1 year after July 26, 1990, prescribe regulations to implement this section, including regulations that--

(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

(B) establish minimum standards that shall be met in carrying out subsection (c) of this section;

(C) require that telecommunications relay services operate every day for 24 hours per day;

(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

(G) prohibit relay operators from intentionally altering a relayed conversation.

(2) Technology

The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 157(a) of this title, the use of existing technology and do not discourage or impair the development of improved technology.

(3) Jurisdictional separation of costs

(A) In general

Consistent with the provisions of section 410 of this title, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

(B) Recovering costs

Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f) of this section, a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

(e) Enforcement

(1) In general

Subject to subsections (f) and (g) of this section, the Commission shall enforce this section.

(2) Complaint

The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

(f) Certification

(1) State documentation

Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

(2) Requirements for certification

After review of such documentation, the Commission shall certify the State program if the Commission determines that--

(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d) of this section; and

(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

(3) Method of funding

Except as provided in subsection (d) of this section, the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

(4) Suspension or revocation of certification

The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

(g) Complaint

(1) Referral of complaint

If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) of this section is in effect, the Commission shall refer such complaint to such State.

(2) Jurisdiction of Commission

After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if--

(A) final action under such State program has not been taken on such complaint by such State--

(i) within 180 days after the complaint is filed with such State; or

(ii) within a shorter period as prescribed by the regulations of such State;
or

(B) the Commission determines that such State program is no longer qualified for certification under subsection (f) of this section.

TAB B

TRS Rules – 47 C.F.R. § 64.601 et seq.

§ 64.601 Definitions and provisions of general applicability.

(a) For purposes of this subpart, the terms Public Safety Answering Point (PSAP), statewide default answering point, and appropriate local emergency authority are defined in 47 CFR 64.3000; the terms pseudo-ANI and Wireline E911 Network are defined in 47 CFR 9.3; the term affiliate is defined in 47 CFR 52.12(a)(1)(i), and the terms majority and debt are defined in 47 CFR 52.12(a)(1)(ii).

(1) 711. The abbreviated dialing code for accessing relay services anywhere in the United States.

(2) American Sign Language (ASL). A visual language based on hand shape, position, movement, and orientation of the hands in relation to each other and the body.

(3) ANI. For 911 systems, the Automatic Number Identification (ANI) identifies the calling party and may be used as the callback number.

(4) ASCII. An acronym for American Standard Code for Information Interexchange which employs an eight bit code and can operate at any standard transmission baud rate including 300, 1200, 2400, and higher.

(5) Baudot. A seven bit code, only five of which are information bits. Baudot is used by some text telephones to communicate with each other at a 45.5 baud rate.

(6) Call release. A TRS feature that allows the CA to sign-off or be “released” from the telephone line after the CA has set up a telephone call between the originating TTY caller and a called TTY party, such as when a TTY user must go through a TRS facility to contact another TTY user because the called TTY party can only be reached through a voice-only interface, such as a switchboard.

(7) Common carrier or carrier. Any common carrier engaged in interstate Communication by wire or radio as defined in section 3(h) of the Communications Act of 1934, as amended (the Act), and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b) of the Act.

(8) Communications assistant (CA). A person who transliterates or interprets conversation between two or more end users of TRS. CA supersedes the term “TDD operator.”

(9) Hearing carry over (HCO). A form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability. The CA does not type any conversation. Two-line HCO is an HCO service that allows TRS users to use one telephone line for hearing and the other for sending TTY messages. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user. HCO-to-HCO allows a relay conversation to take place between two HCO users.

(10) Interconnected VoIP service. An interconnected Voice over Internet protocol (VoIP) service is a service that:

- (i) Enables real-time, two-way voice communications;
- (ii) Requires a broadband connection from the user's location;
- (iii) Requires Internet protocol-compatible customer premises equipment (CPE); and
- (iv) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(11) Internet-based TRS. A telecommunications relay service (TRS) in which an individual with a hearing or a speech disability connects to a TRS communications assistant using an Internet Protocol-enabled device via the Internet, rather than the public switched telephone network. Internet-based TRS does not include the use of a text telephone (TTY) over an interconnected voice over Internet Protocol service.

(12) Internet Protocol Captioned Telephone Service (IP CTS). A telecommunications relay service that permits an individual who can speak but who has difficulty hearing over the telephone to use a telephone and an Internet Protocol-enabled device via the Internet to simultaneously listen to the other party and read captions of what the other party is saying. With IP CTS, the connection carrying the captions between the relay service provider and the relay service user is via the Internet, rather than the public switched telephone network.

(13) Internet Protocol Relay Service (IP Relay). A telecommunications relay service that permits an individual with a hearing or a speech disability to communicate in text using an Internet Protocol-enabled device via the Internet, rather than using a text telephone (TTY) and the public switched telephone network.

(14) Non-English language relay service. A telecommunications relay service that allows persons with hearing or speech disabilities who use languages other than English to communicate with voice telephone users in a shared language other than English, through a CA who is fluent in that language.

(15) Numbering Partner . Any entity with which an Internet-based TRS provider has entered into a commercial arrangement to obtain North American Numbering Plan telephone numbers.

(16) Qualified interpreter. An interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(17) Registered Location. The most recent information obtained by a VRS or IP Relay provider that identifies the physical location of an end user.

(18) Registered Internet-based TRS User. An individual that has registered with a VRS or IP Relay provider as described in §64.611 of this chapter.

(19) Speech-to-speech relay service (STS). A telecommunications relay service that allows individuals with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with speech disabilities and can repeat the words spoken by that person.

(20) Speed dialing. A TRS feature that allows a TRS user to place a call using a stored number maintained by the TRS facility. In the context of TRS, speed dialing allows a TRS user to give the CA a short-hand name or number for the user's most frequently called telephone numbers.

(21) Telecommunications relay services (TRS). Telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech services, video relay services and non-English relay services. TRS supersedes the terms “dual party relay system,” “message relay services,” and “TDD Relay.”

(22) Text telephone (TTY). A machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system. TTY supersedes the term “TDD” or “telecommunications device for the deaf,” and TT.

(23) Three-way calling feature. A TRS feature that allows more than two parties to be on the telephone line at the same time with the CA.

(24) TRS Numbering Administrator. The neutral administrator of the TRS Numbering Directory selected based on a competitive bidding process.

(25) TRS Numbering Directory. The database administered by the TRS Numbering Administrator, the purpose of which is to map each Registered Internet-based TRS User's NANP telephone number to his or her end device.

(26) Video relay service (VRS). A telecommunications relay service that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. The video link allows the CA to view and interpret the party's signed conversation and relay the conversation back and forth with a voice caller.

(27) Voice carry over (VCO). A form of TRS where the person with the hearing disability is able to speak directly to the other end user. The CA types the response back to the person with the hearing disability. The CA does not voice the conversation. Two-line VCO is a VCO service that allows TRS users to use one telephone line for voicing and the other for receiving TTY messages. A VCO-to-TTY TRS call allows a relay conversation to take place between a VCO user and a TTY user. VCO-to-VCO allows a relay conversation to take place between two VCO users.

(b) For purposes of this subpart, all regulations and requirements applicable to common carriers shall also be applicable to providers of interconnected VoIP service.

§ 64.602 Jurisdiction.

Any violation of this subpart F by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of the Act by a common carrier engaged in interstate communication.

§ 64.603 Provision of services.

Each common carrier providing telephone voice transmission services shall provide, not later than July 26, 1993, in compliance with the regulations prescribed herein, throughout the area in which it offers services, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. Speech-to-speech relay service and interstate Spanish language relay service shall be provided by March 1, 2001. In addition, each common carrier providing telephone voice transmission services shall provide, not later than October 1, 2001, access via the 711 dialing code to all relay services as a toll free call. A common carrier shall be considered to be in compliance with these regulations:

(a) With respect to intrastate telecommunications relay services in any state that does not have a certified program under §64.606 and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with §64.604; or

(b) With respect to intrastate telecommunications relay services in any state that has a certified program under §64.606 for such state, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under §64.606 for such state.

§ 64.604 Mandatory minimum standards.

The standards in this section are applicable December 18, 2000, except as stated in paragraphs (c)(2) and (c)(7) of this section.

(a) Operational standards —(1) Communications assistant (CA). (i) TRS providers are responsible for requiring that all CAs be sufficiently trained to effectively meet the specialized communications needs of individuals with hearing and speech disabilities.

(ii) CAs must have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech disability cultures, languages and etiquette. CAs must possess clear and articulate voice communications.

(iii) CAs must provide a typing speed of a minimum of 60 words per minute. Technological aids may be used to reach the required typing speed. Providers must give oral-to-type tests of CA speed.

(iv) TRS providers are responsible for requiring that VRS CAs are qualified interpreters. A “qualified interpreter” is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(v) CAs answering and placing a TTY-based TRS or VRS call must stay with the call for a minimum of ten minutes. CAs answering and placing an STS call must stay with the call for a minimum of fifteen minutes.

(vi) TRS providers must make best efforts to accommodate a TRS user's requested CA gender when a call is initiated and, if a transfer occurs, at the time the call is transferred to another CA.

(vii) TRS shall transmit conversations between TTY and voice callers in real time.

(2) Confidentiality and conversation content. (i) Except as authorized by section 705 of the Communications Act, 47 U.S.C. 605, CAs are prohibited from disclosing the content of any relayed conversation regardless of content, and with a limited exception for STS CAs, from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law. STS CAs may retain information from a particular call in order to facilitate the completion of consecutive calls, at the request of the user. The caller may request the STS CA to retain such information, or the CA may ask the caller if he wants the CA to repeat the same information during subsequent calls. The CA may retain the information only for as long as it takes to complete the subsequent calls.

(ii) CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization, or if the user requests interpretation of an ASL call. An STS CA may facilitate the call of an STS user with a speech disability so long as the CA does not interfere with the independence of the user, the user maintains control of the conversation, and the user does not object. Appropriate measures must be taken by relay providers to ensure that confidentiality of VRS users is maintained.

(3) Types of calls. (i) Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services.

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call.

(iii) Relay service providers are permitted to decline to complete a call because credit authorization is denied.

(iv) Relay services shall be capable of handling pay-per-call calls.

(v) TRS providers are required to provide the following types of TRS calls: (1) Text-to-voice and voice-to-text; (2) VCO, two-line VCO, VCO-to-TTY, and VCO-to-VCO; (3) HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO.

(vi) TRS providers are required to provide the following features: (1) Call release functionality; (2) speed dialing functionality; and (3) three-way calling functionality.

(vii) Voice mail and interactive menus. CAs must alert the TRS user to the presence of a recorded message and interactive menu through a hot key on the CA's terminal. The hot key will send text from the CA to the consumer's TTY indicating that a recording or interactive menu has been encountered. Relay providers shall electronically capture recorded messages and retain them for the length of the call. Relay providers may not impose any charges for additional calls, which must be made by the relay user in order to complete calls involving recorded or interactive messages.

(viii) TRS providers shall provide, as TRS features, answering machine and voice mail retrieval.

(4) Emergency call handling requirements for TTY-based TRS providers. TTY-based TRS providers must use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to an appropriate Public Safety Answering Point (PSAP). An appropriate PSAP is either a PSAP that the caller would have reached if he had dialed 911 directly, or a PSAP that is capable of enabling the dispatch of emergency services to the caller in an expeditious manner.

(5) STS called numbers. Relay providers must offer STS users the option to maintain at the relay center a list of names and telephone numbers which the STS user calls. When the STS user requests one of these names, the CA must repeat the name and state the telephone number to the STS user. This information must be transferred to any new STS provider.

(b) Technical standards —(1) ASCII and Baudot. TRS shall be capable of communicating with ASCII and Baudot format, at any speed generally in use.

(2) Speed of answer. (i) TRS providers shall ensure adequate TRS facility staffing to provide callers with efficient access under projected calling volumes, so that the probability of a busy response due to CA unavailability shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.

(ii) TRS facilities shall, except during network failure, answer 85% of all calls within 10 seconds by any method which results in the caller's call immediately being placed, not put in a queue or on hold. The ten seconds begins at the time the call is delivered to the TRS facility's network. A TRS facility shall ensure that adequate network facilities shall be used in conjunction with TRS

so that under projected calling volume the probability of a busy response due to loop trunk congestion shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.

(A) The call is considered delivered when the TRS facility's equipment accepts the call from the local exchange carrier (LEC) and the public switched network actually delivers the call to the TRS facility.

(B) Abandoned calls shall be included in the speed-of-answer calculation.

(C) A TRS provider's compliance with this rule shall be measured on a daily basis.

(D) The system shall be designed to a P.01 standard.

(E) A LEC shall provide the call attempt rates and the rates of calls blocked between the LEC and the TRS facility to relay administrators and TRS providers upon request.

(iii) Speed of answer requirements for VRS providers are phased-in as follows: by January 1, 2006, VRS providers must answer 80% of all calls within 180 seconds, measured on a monthly basis; by July 1, 2006, VRS providers must answer 80% of all calls within 150 seconds, measured on a monthly basis; and by January 1, 2007, VRS providers must answer 80% of all calls within 120 seconds, measured on a monthly basis. Abandoned calls shall be included in the VRS speed of answer calculation.

(3) Equal access to interexchange carriers. TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services, to the same extent that such access is provided to voice users.

(4) TRS facilities. (i) TRS shall operate every day, 24 hours a day. Relay services that are not mandated by this Commission need not be provided every day, 24 hours a day, except VRS.

(ii) TRS shall have redundancy features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use.

(5) Technology. No regulation set forth in this subpart is intended to discourage or impair the development of improved technology that fosters the availability of telecommunications to person with disabilities. TRS facilities are permitted to use SS7 technology or any other type of similar technology to enhance the functional equivalency and quality of TRS. TRS facilities that utilize SS7 technology shall be subject to the Calling Party Telephone Number rules set forth at 47 CFR 64.1600 et seq.

(6) Caller ID. When a TRS facility is able to transmit any calling party identifying information to the public network, the TRS facility must pass through, to the called party, at least one of the following: the number of the TRS facility, 711, or the 10-digit number of the calling party.

(c) Functional standards —(1) Consumer complaint logs. (i) States and interstate providers must maintain a log of consumer complaints including all complaints about TRS in the state, whether filed with the TRS provider or the State, and must retain the log until the next application for certification is granted. The log shall include, at a minimum, the date the complaint was filed, the nature of the complaint, the date of resolution, and an explanation of the resolution.

(ii) Beginning July 1, 2002, states and TRS providers shall submit summaries of logs indicating the number of complaints received for the 12-month period ending May 31 to the Commission by July 1 of each year. Summaries of logs submitted to the Commission on July 1, 2001 shall indicate the number of complaints received from the date of OMB approval through May 31, 2001.

(2) Contact persons. Beginning on June 30, 2000, State TRS Programs, interstate TRS providers, and TRS providers that have state contracts must submit to the Commission a contact person and/or office for TRS consumer information and complaints about a certified State TRS Program's provision of intrastate TRS, or, as appropriate, about the TRS provider's service. This submission must include, at a minimum, the following:

(i) The name and address of the office that receives complaints, grievances, inquiries, and suggestions;

(ii) Voice and TTY telephone numbers, fax number, e-mail address, and web address; and

(iii) The physical address to which correspondence should be sent.

(3) Public access to information. Carriers, through publication in their directories, periodic billing inserts, placement of TRS instructions in telephone directories, through directory assistance services, and incorporation of TTY numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and use of all forms of TRS. Efforts to educate the public about TRS should extend to all segments of the public, including individuals who are hard of hearing, speech disabled, and senior citizens as well as members of the general population. In addition, each common carrier providing telephone voice transmission services shall conduct, not later than October 1, 2001, ongoing education and outreach programs that publicize the availability of 711 access to TRS in a manner reasonably designed to reach the largest number of consumers possible.

(4) Rates. TRS users shall pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from the point of origination to the point of termination.

(5) Jurisdictional separation of costs —(i) General. Where appropriate, costs of providing TRS shall be separated in accordance with the jurisdictional separation procedures and standards set forth in the Commission's regulations adopted pursuant to section 410 of the Communications Act of 1934, as amended.

(ii) Cost recovery. Costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism. Except as noted in this paragraph, with respect to VRS, costs caused by intrastate TRS shall be recovered from the intrastate jurisdiction. In a state that has a certified program under §64.606, the state agency providing TRS shall, through the state's regulatory agency, permit a common carrier to recover costs incurred in providing TRS by a method consistent with the requirements of this section. Costs caused by the provision of interstate and intrastate VRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism.

(iii) Telecommunications Relay Services Fund. Effective July 26, 1993, an Interstate Cost Recovery Plan, hereinafter referred to as the TRS Fund, shall be administered by an entity selected by the Commission (administrator). The initial administrator, for an interim period, will be the National Exchange Carrier Association, Inc.

(A) Contributions. Every carrier providing interstate telecommunications services shall contribute to the TRS Fund on the basis of interstate end-user telecommunications revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

(B) Contribution computations. Contributors' contribution to the TRS fund shall be the product of their subject revenues for the prior calendar year and a contribution factor determined annually by the Commission. The contribution factor shall be based on the ratio between expected TRS Fund expenses to interstate end-user telecommunications revenues. In the event that contributions exceed TRS payments and administrative costs, the contribution factor for the following year will be adjusted by an appropriate amount, taking into consideration projected cost and usage changes. In the event that contributions are inadequate, the fund administrator may request authority from the Commission to borrow funds commercially, with such debt secured by future years' contributions. Each subject carrier must contribute at least \$25 per year. Carriers whose annual contributions total less than \$1,200 must pay the entire contribution at the beginning of the contribution period. Service providers whose contributions total \$1,200 or more may divide their contributions into equal monthly payments. Carriers shall complete and submit, and contributions shall be based on, a "Telecommunications Reporting Worksheet" (as published by the Commission in the Federal Register). The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. Contributors' statements in the worksheet shall be subject to the provisions of section 220 of the Communications Act of 1934, as amended. The fund administrator may bill contributors a separate assessment for reasonable administrative expenses and interest resulting from improper filing or overdue contributions. The Chief of the Consumer & Governmental Affairs Bureau may waive, reduce, modify or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the TRS Fund.

(C) Data collection from TRS providers. TRS providers shall provide the administrator with true and adequate data, and other historical, projected and state rate related information reasonably requested by the administrator, necessary to determine TRS Fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with part 32 of this chapter, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. The administrator and the Commission shall have the authority to examine, verify and audit data received from TRS providers as necessary to assure the accuracy and integrity of TRS Fund payments.

(D) [Reserved]

(E) Payments to TRS providers. TRS Fund payments shall be distributed to TRS providers based on formulas approved or modified by the Commission. The administrator shall file schedules of payment formulas with the Commission. Such formulas shall be designed to compensate TRS providers for reasonable costs of providing interstate TRS, and shall be subject to Commission approval. Such formulas shall be based on total monthly interstate TRS minutes of use. TRS minutes of use for purposes of interstate cost recovery under the TRS Fund are defined as the minutes of use for completed interstate TRS calls placed through the TRS center beginning after call set-up and concluding after the last message call unit. In addition to the data required under paragraph (c)(5)(iii)(C) of this section, all TRS providers, including providers who are not interexchange carriers, local exchange carriers, or certified state relay providers, must submit reports of interstate TRS minutes of use to the administrator in order to receive payments. The administrator shall establish procedures to verify payment claims, and may suspend or delay payments to a TRS provider if the TRS provider fails to provide adequate verification of payment upon reasonable request, or if directed by the Commission to do so. The TRS Fund administrator shall make payments only to eligible TRS providers operating pursuant to the mandatory minimum standards as required in §64.604, and after disbursements to the administrator for reasonable expenses incurred by it in connection with TRS Fund administration. TRS providers receiving payments shall file a form prescribed by the administrator. The administrator shall fashion a form that is consistent with parts 32 and 36 procedures reasonably tailored to meet the needs of TRS providers. The Commission shall have authority to audit providers and have access to all data, including carrier specific data, collected by the fund administrator. The fund administrator shall have authority to audit TRS providers reporting data to the administrator. The formulas should appropriately compensate interstate providers for the provision of VRS, whether intrastate or interstate.

(F) TRS providers eligible for receiving payments from the TRS Fund are:

(1) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to §64.606; or

(2) TRS facilities owned by or operated under contract with a common carrier providing interstate services operated pursuant to §64.604; or

(3) Interstate common carriers offering TRS pursuant to §64.604; or

(4) Video Relay Service (VRS) and Internet Protocol (IP) Relay providers certified by the Commission pursuant to §64.606.

(G) Any eligible TRS provider as defined in paragraph (c)(5)(iii)(F) of this section shall notify the administrator of its intent to participate in the TRS Fund thirty (30) days prior to submitting reports of TRS interstate minutes of use in order to receive payment settlements for interstate TRS, and failure to file may exclude the TRS provider from eligibility for the year.

(H) Administrator reporting, monitoring, and filing requirements. The administrator shall perform all filing and reporting functions required in paragraphs (c)(5)(iii)(A) through (c)(5)(iii)(J) of this section. TRS payment formulas and revenue requirements shall be filed with the Commission on May 1 of each year, to be effective the following July 1. The administrator shall report annually to the Commission an itemization of monthly administrative costs which shall consist of all expenses, receipts, and payments associated with the administration of the TRS Fund. The administrator is required to keep the TRS Fund separate from all other funds administered by the administrator, shall file a cost allocation manual (CAM) and shall provide the Commission full access to all data collected pursuant to the administration of the TRS Fund. The administrator shall account for the financial transactions of the TRS Fund in accordance with generally accepted accounting principles for federal agencies and maintain the accounts of the TRS Fund in accordance with the United States Government Standard General Ledger. When the administrator, or any independent auditor hired by the administrator, conducts audits of providers of services under the TRS program or contributors to the TRS Fund, such audits shall be conducted in accordance with generally accepted government auditing standards. In administering the TRS Fund, the administrator shall also comply with all relevant and applicable federal financial management and reporting statutes. The administrator shall establish a non-paid voluntary advisory committee of persons from the hearing and speech disability community, TRS users (voice and text telephone), interstate service providers, state representatives, and TRS providers, which will meet at reasonable intervals (at least semi-annually) in order to monitor TRS cost recovery matters. Each group shall select its own representative to the committee. The administrator's annual report shall include a discussion of the advisory committee deliberations.

(I) Information filed with the administrator. The administrator shall keep all data obtained from contributors and TRS providers confidential and shall not disclose such data in company-specific form unless directed to do so by the Commission. Subject to any restrictions imposed by the Chief of the Consumer & Governmental Affairs Bureau, the TRS Fund administrator may share data obtained from carriers with the administrators of the universal support mechanisms (See 47 CFR 54.701 of this chapter), the North American Numbering Plan administration cost recovery (See 47 CFR 52.16 of this chapter), and the long-term local number portability cost recovery (See 47 CFR 52.32 of this chapter). The TRS Fund administrator shall keep confidential all data obtained from other administrators. The administrator shall not use such data except for purposes of administering the TRS Fund, calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission. The Commission shall have access to all data reported to the administrator, and authority to audit TRS providers. Contributors may make requests for Commission nondisclosure of company-specific revenue

information under §0.459 of this chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information.

(J) The administrator's performance and this plan shall be reviewed by the Commission after two years.

(K) All parties providing services or contributions or receiving payments under this section are subject to the enforcement provisions specified in the Communications Act, the Americans with Disabilities Act, and the Commission's rules.

(6) Complaints —(i) Referral of complaint. If a complaint to the Commission alleges a violation of this subpart with respect to intrastate TRS within a state and certification of the program of such state under §64.606 is in effect, the Commission shall refer such complaint to such state expeditiously.

(ii) Intrastate complaints shall be resolved by the state within 180 days after the complaint is first filed with a state entity, regardless of whether it is filed with the state relay administrator, a state PUC, the relay provider, or with any other state entity.

(iii) Jurisdiction of Commission. After referring a complaint to a state entity under paragraph (c)(6)(i) of this section, or if a complaint is filed directly with a state entity, the Commission shall exercise jurisdiction over such complaint only if:

(A) Final action under such state program has not been taken within:

(1) 180 days after the complaint is filed with such state entity; or

(2) A shorter period as prescribed by the regulations of such state; or

(B) The Commission determines that such state program is no longer qualified for certification under §64.606.

(iv) The Commission shall resolve within 180 days after the complaint is filed with the Commission any interstate TRS complaint alleging a violation of section 225 of the Act or any complaint involving intrastate relay services in states without a certified program. The Commission shall resolve intrastate complaints over which it exercises jurisdiction under paragraph (c)(6)(iii) of this section within 180 days.

(v) Complaint procedures. Complaints against TRS providers for alleged violations of this subpart may be either informal or formal.

(A) Informal complaints —

(1) Form. An informal complaint may be transmitted to the Consumer & Governmental Affairs Bureau by any reasonable means, such as letter, facsimile transmission, telephone

(voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate a complainant's hearing or speech disability.

(2) Content. An informal complaint shall include the name and address of the complainant; the name and address of the TRS provider against whom the complaint is made; a statement of facts supporting the complainant's allegation that the TRS provided it has violated or is violating section 225 of the Act and/or requirements under the Commission's rules; the specific relief or satisfaction sought by the complainant; and the complainant's preferred format or method of response to the complaint by the Commission and the defendant TRS provider (such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate the complainant's hearing or speech disability).

(3) Service; designation of agents. The Commission shall promptly forward any complaint meeting the requirements of this subsection to the TRS provider named in the complaint. Such TRS provider shall be called upon to satisfy or answer the complaint within the time specified by the Commission. Every TRS provider shall file with the Commission a statement designating an agent or agents whose principal responsibility will be to receive all complaints, inquiries, orders, decisions, and notices and other pronouncements forwarded by the Commission. Such designation shall include a name or department designation, business address, telephone number (voice and TTY), facsimile number and, if available, Internet e-mail address.

(B) Review and disposition of informal complaints.

(1) Where it appears from the TRS provider's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the matter closed without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information shall be transmitted to the complainant and defendant in the manner requested by the complainant (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY) or Internet e-mail).

(2) A complainant unsatisfied with the defendant's response to the informal complaint and the staff's decision to terminate action on the informal complaint may file a formal complaint with the Commission pursuant to paragraph (c)(6)(v)(C) of this section.

(C) Formal complaints. A formal complaint shall be in writing, addressed to the Federal Communications Commission, Enforcement Bureau, Telecommunications Consumer Division, Washington, DC 20554 and shall contain:

(1) The name and address of the complainant,

(2) The name and address of the defendant against whom the complaint is made,

(3) A complete statement of the facts, including supporting data, where available, showing that such defendant did or omitted to do anything in contravention of this subpart, and

(4) The relief sought.

(D) Amended complaints. An amended complaint setting forth transactions, occurrences or events which have happened since the filing of the original complaint and which relate to the original cause of action may be filed with the Commission.

(E) Number of copies. An original and two copies of all pleadings shall be filed.

(F) Service.

(1) Except where a complaint is referred to a state pursuant to §64.604(c)(6)(i), or where a complaint is filed directly with a state entity, the Commission will serve on the named party a copy of any complaint or amended complaint filed with it, together with a notice of the filing of the complaint. Such notice shall call upon the defendant to satisfy or answer the complaint in writing within the time specified in said notice of complaint.

(2) All subsequent pleadings and briefs shall be served by the filing party on all other parties to the proceeding in accordance with the requirements of §1.47 of this chapter. Proof of such service shall also be made in accordance with the requirements of said section.

(G) Answers to complaints and amended complaints. Any party upon whom a copy of a complaint or amended complaint is served under this subpart shall serve an answer within the time specified by the Commission in its notice of complaint. The answer shall advise the parties and the Commission fully and completely of the nature of the defense and shall respond specifically to all material allegations of the complaint. In cases involving allegations of harm, the answer shall indicate what action has been taken or is proposed to be taken to stop the occurrence of such harm. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve an answer within the time and in the manner prescribed may be deemed in default.

(H) Replies to answers or amended answers. Within 10 days after service of an answer or an amended answer, a complainant may file and serve a reply which shall be responsive to matters contained in such answer or amended answer and shall not contain new matter. Failure to reply will not be deemed an admission of any allegation contained in such answer or amended answer.

(I) Defective pleadings. Any pleading filed in a complaint proceeding that is not in substantial conformity with the requirements of the applicable rules in this subpart may be dismissed.

(7) Treatment of TRS customer information. Beginning on July 21, 2000, all future contracts between the TRS administrator and the TRS vendor shall provide for the transfer of TRS customer profile data from the outgoing TRS vendor to the incoming TRS vendor. Such data must be disclosed in usable form at least 60 days prior to the provider's last day of service provision. Such data may not be used for any purpose other than to connect the TRS user with the called parties desired by that TRS user. Such information shall not be sold, distributed,

shared or revealed in any other way by the relay center or its employees, unless compelled to do so by lawful order.

§ 64.605 Emergency calling requirements.

(a) Additional Emergency Calling Requirements Applicable to Internet-based TRS Providers. (1) As of December 31, 2008, the requirements of paragraphs (a)(2)(i) and (a)(2)(iv) of this section shall not apply to providers of VRS and IP Relay to which §64.605(b) applies.

(2) Each provider of Internet-based TRS shall:

(i) Accept and handle emergency calls and access, either directly or via a third party, a commercially available database that will allow the provider to determine an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location, and to relay the call to that entity;

(ii) Implement a system that ensures that the provider answers an incoming emergency call before other non-emergency calls (i.e. , prioritize emergency calls and move them to the top of the queue);

(iii) Request, at the beginning of each emergency call, the caller's name and location information, unless the Internet-based TRS provider already has, or has access to, a Registered Location for the caller;

(iv) Deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of the outbound leg of an emergency call, at a minimum, the name of the relay user and location of the emergency, as well as the name of the relay provider, the CA's callback number, and the CA's identification number, thereby enabling the PSAP, designated statewide default answering point, or appropriate local emergency authority to re-establish contact with the CA in the event the call is disconnected;

(v) In the event one or both legs of an emergency call are disconnected (i.e. , either the call between the TRS user and the CA, or the outbound voice telephone call between the CA and the PSAP, designated statewide default answering point, or appropriate local emergency authority), immediately re-establish contact with the TRS user and/or the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority and resume handling the call; and

(vi) Ensure that information obtained as a result of this section is limited to that needed to facilitate 911 services, is made available only to emergency call handlers and emergency response or law enforcement personnel, and is used for the sole purpose of ascertaining a user's location in an emergency situation or for other emergency or law enforcement purposes.

(b) E911 Service for VRS and IP Relay —(1) Scope. The following requirements are only applicable to providers of VRS or IP Relay. Further, the following requirements apply only to

911 calls placed by registered users whose Registered Location is in a geographic area served by a Wireline E911 Network and is available to the provider handling the call.

(2) E911 Service. As of December 31, 2008:

(i) VRS or IP Relay providers must, as a condition of providing service to a user, provide that user with E911 service as described in this section;

(ii) VRS or IP Relay providers must transmit all 911 calls, as well as ANI, the caller's Registered Location, the name of the VRS or IP Relay provider, and the CA's identification number for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter, provided that "all 911 calls" is defined as "any communication initiated by an VRS or IP Relay user dialing 911";

(iii) All 911 calls must be routed through the use of ANI and, if necessary, pseudo-ANI, via the dedicated Wireline E911 Network; and

(iv) The Registered Location, the name of the VRS or IP Relay provider, and the CA's identification number must be available to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority from or through the appropriate automatic location information (ALI) database.

(3) Service Level Obligation. Notwithstanding the provisions in paragraph (b)(2) of this section, if a PSAP, designated statewide default answering point, or appropriate local emergency authority is not capable of receiving and processing either ANI or location information, a VRS or IP Relay provider need not provide such ANI or location information; however, nothing in this paragraph affects the obligation under paragraph (c) of this section of a VRS or IP Relay provider to transmit via the Wireline E911 Network all 911 calls to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter.

(4) Registered Location Requirement. As of December 31, 2008, VRS and IP Relay providers must:

(i) Obtain from each Registered Internet-based TRS User, prior to the initiation of service, the physical location at which the service will first be utilized; and

(ii) If the VRS or IP Relay is capable of being used from more than one location, provide their Registered Internet-based TRS Users one or more methods of updating their Registered Location, including at least one option that requires use only of the CPE necessary to access the VRS or IP Relay. Any method utilized must allow a Registered Internet-based TRS User to update the Registered Location at will and in a timely manner.

§ 64.606 VRS and IP Relay provider and TRS program certification.

(a) Documentation —

(1) Certified state program. Any state, through its office of the governor or other delegated executive office empowered to provide TRS, desiring to establish a state program under this section shall submit, not later than October 1, 1992, documentation to the Commission addressed to the Federal Communications Commission, Chief, Consumer & Governmental Affairs Bureau, TRS Certification Program, Washington, DC 20554, and captioned “TRS State Certification Application.” All documentation shall be submitted in narrative form, shall clearly describe the state program for implementing intrastate TRS, and the procedures and remedies for enforcing any requirements imposed by the state program. The Commission shall give public notice of states filing for certification including notification in the Federal Register.

(2) VRS and IP Relay provider. Any entity desiring to provide VRS or IP Relay services, independent from any certified state TRS program or any TRS provider otherwise eligible for compensation from the Interstate TRS Fund, and to receive compensation from the Interstate TRS Fund, shall submit documentation to the Commission addressed to the Federal Communications Commission, Chief, Consumer & Governmental Affairs Bureau, TRS Certification Program, Washington, DC 20554, and captioned “VRS and IP Relay Certification Application.” The documentation shall include, in narrative form:

- (i) A description of the forms of TRS to be provided (i.e. , VRS and/or IP Relay);
- (ii) A description of how the provider will meet all non-waived mandatory minimum standards applicable to each form of TRS offered;
- (iii) A description of the provider's procedures for ensuring compliance with all applicable TRS rules;
- (iv) A description of the provider's complaint procedures;
- (v) A narrative describing any areas in which the provider's service will differ from the applicable mandatory minimum standards;
- (vi) A narrative establishing that services that differ from the mandatory minimum standards do not violate applicable mandatory minimum standards;
- (vii) Demonstration of status as a common carrier; and
- (viii) A statement that the provider will file annual compliance reports demonstrating continued compliance with these rules.

(b)(1) Requirements for state certification. After review of state documentation, the Commission shall certify, by letter, or order, the state program if the Commission determines that the state certification documentation:

(i) Establishes that the state program meets or exceeds all operational, technical, and functional minimum standards contained in §64.604;

(ii) Establishes that the state program makes available adequate procedures and remedies for enforcing the requirements of the state program, including that it makes available to TRS users informational materials on state and Commission complaint procedures sufficient for users to know the proper procedures for filing complaints; and

(iii) Where a state program exceeds the mandatory minimum standards contained in §64.604, the state establishes that its program in no way conflicts with federal law.

(2) Requirements for VRS and IP Relay Provider FCC Certification. After review of certification documentation, the Commission shall certify, by Public Notice, that the VRS or IP Relay provider is eligible for compensation from the Interstate TRS Fund if the Commission determines that the certification documentation:

(i) Establishes that the provision of VRS and/or IP Relay will meet or exceed all non-waived operational, technical, and functional minimum standards contained in §64.604;

(ii) Establishes that the VRS and/or IP Relay provider makes available adequate procedures and remedies for ensuring compliance with the requirements of this section and the mandatory minimum standards contained in §64.604, including that it makes available for TRS users informational materials on complaint procedures sufficient for users to know the proper procedures for filing complaints; and

(iii) Where the TRS service differs from the mandatory minimum standards contained in §64.604, the VRS and/or IP Relay provider establishes that its service does not violate applicable mandatory minimum standards.

(c)(1) State certification period. State certification shall remain in effect for five years. One year prior to expiration of certification, a state may apply for renewal of its certification by filing documentation as prescribed by paragraphs (a) and (b) of this section.

(2) VRS and IP Relay Provider FCC certification period. Certification granted under this section shall remain in effect for five years. A VRS or IP Relay provider may apply for renewal of its certification by filing documentation with the Commission, at least 90 days prior to expiration of certification, containing the information described in paragraph (a)(2) of this section.

(d) Method of funding. Except as provided in §64.604, the Commission shall not refuse to certify a state program based solely on the method such state will implement for funding intrastate TRS, but funding mechanisms, if labeled, shall be labeled in a manner that promote national understanding of TRS and do not offend the public.

(e)(1) Suspension or revocation of state certification. The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a state whose program has been suspended or

revoked, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity of TRS. The Commission may, on its own motion, require a certified state program to submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a state program may not be in compliance with the minimum standards.

(2) Suspension or revocation of VRS and IP Relay Provider FCC certification. The Commission may suspend or revoke the certification of a VRS or IP Relay provider if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. The Commission may, on its own motion, require a certified VRS or IP Relay provider to submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a certified VRS or IP Relay provider may not be in compliance with the minimum standards.

(f) Notification of substantive change. (1) States must notify the Commission of substantive changes in their TRS programs within 60 days of when they occur, and must certify that the state TRS program continues to meet federal minimum standards after implementing the substantive change.

(2) VRS and IP Relay providers certified under this section must notify the Commission of substantive changes in their TRS programs, services, and features within 60 days of when such changes occur, and must certify that the interstate TRS provider continues to meet federal minimum standards after implementing the substantive change.

(g) VRS and IP Relay providers certified under this section shall file with the Commission, on an annual basis, a report providing evidence that they are in compliance with §64.604.

§ 64.611 Internet-based TRS registration.

(a) Default provider registration. Every provider of VRS or IP Relay must, no later than December 31, 2008, provide users with the capability to register with that VRS or IP Relay provider as a “default provider.” Upon a user's registration, the VRS or IP Relay provider shall:

(1) Either:

(i) Facilitate the user's valid number portability request as set forth in 47 CFR 52.34; or, if the user does not wish to port a number,

(ii) Assign that user a geographically appropriate North American Numbering Plan telephone number; and

(2) Route and deliver all of that user's inbound and outbound calls unless the user chooses to place a call with, or receives a call from, an alternate provider.

(b) Mandatory registration of new users. As of December 31, 2008, VRS and IP Relay providers must, prior to the initiation of service for an individual that has not previously utilized VRS or IP Relay, register that new user as described in paragraph (a) of this section.

(c) Obligations of default providers and former default providers. (1) Default providers must:

(i) Obtain current routing information, including IP addresses or domain names and user names, from their Registered Internet-based TRS Users;

(ii) Provision such information to the TRS Numbering Directory; and

(iii) Maintain such information in their internal databases and in the TRS Numbering Directory.

(2) Internet-based TRS providers (and, to the extent necessary, their Numbering Partners) must:

(i) Take such steps as are necessary to cease acquiring routing information from any VRS or IP Relay user that ports his or her number to another VRS or IP Relay provider or otherwise selects a new default provider;

(ii) Communicate among themselves as necessary to ensure that:

(A) Only the default provider provisions routing information to the central database; and

(B) VRS and IP Relay providers other than the default provider are aware that they must query the TRS Numbering Directory in order to obtain accurate routing information for a particular user of VRS or IP Relay.

(d) Proxy numbers. After December 31, 2008, a VRS or IP Relay provider:

(1) May not assign or issue a proxy or alias for a NANP telephone number to any user; and

(2) Must cease to use any proxy or alias for a NANP telephone number assigned or issued to any Registered Internet-based TRS User.

(e) CPE.

(1) Every VRS or IP Relay provider must ensure that all CPE they have issued, leased, or otherwise provided to VRS or IP Relay users delivers routing information or other information only to the user's default provider, except as is necessary to complete or receive "dial around" calls on a case-by-case basis.

(2) All CPE issued, leased, or otherwise provided to VRS or IP Relay users by Internet-based TRS providers must be capable of facilitating the requirements of this section.

(f) User notification. Every VRS or IP Relay provider must include an advisory on its website and in any promotional materials addressing numbering or E911 services for VRS or IP Relay.

(1) At a minimum, the advisory must address the following issues:

(i) The process by which VRS or IP Relay users may obtain ten-digit telephone numbers, including a brief summary of the numbering assignment and administration processes adopted herein;

(ii) The portability of ten-digit telephone numbers assigned to VRS or IP Relay users;

(iii) The process by which persons using VRS or IP Relay may submit, update, and confirm receipt by the provider of their Registered Location information; and

(iv) An explanation emphasizing the importance of maintaining accurate, up-to-date Registered Location information with the user's default provider in the event that the individual places an emergency call via an Internet-based relay service.

(2) VRS and IP Relay providers must obtain and keep a record of affirmative acknowledgment by every Registered Internet-based TRS User of having received and understood the advisory described in this subsection.

§ 64.613 Numbering directory for Internet-based TRS users.

(a) TRS Numbering Directory. (1) The TRS Numbering Directory shall contain records mapping the NANP telephone number of each Registered Internet-based TRS User to a unique Uniform Resource Identifier (URI).

(2) For each record associated with a VRS user, the URI shall contain the user's Internet Protocol (IP) address. For each record associated with an IP Relay user, the URI shall contain the user's user name and domain name that can be subsequently resolved to reach the user.

(3) Only the TRS Numbering Administrator and Internet-based TRS providers may access the TRS Numbering Directory.

(b) Administration —(1) Neutrality. (i) The TRS Numbering Administrator shall be a non-governmental entity that is impartial and not an affiliate of any Internet-based TRS provider.

(ii) Neither the TRS Numbering Administrator nor any affiliate may issue a majority of its debt to, nor derive a majority of its revenues from, any Internet-based TRS provider.

(iii) Nor may the TRS Numbering Administrator nor any affiliate be unduly influenced, as determined by the North American Numbering Council, by parties with a vested interest in the outcome of TRS-related numbering administration and activities.

(iv) Any subcontractor that performs any function of the TRS Numbering Administrator must also meet these neutrality criteria.

(2) Terms of Administration. The TRS Numbering Administrator shall administer the TRS Numbering Directory pursuant to the terms of its contract.

(3) Compensation. The TRS Fund, as defined by 47 CFR 64.604(a)(5)(iii), may compensate the TRS Numbering Administrator for the reasonable costs of administration pursuant to the terms of its contract.

TAB C

Excerpts of Relevant FCC TRS Orders

1OVERVIEW OF THE FCC'S PROHIBITIONS ON TRS MARKETING

The FCC has “clarified” that providers seeking compensation from the Interstate TRS Fund may not offer consumers financial or other incentives, directly or indirectly, to make TRS calls. The discussion below provides a summary of these Commission rulings.

2005 Financial Incentives Declaratory Ruling

In January 2005, the Consumer & Governmental Affairs Bureau (“CGB”) released the *2005 Financial Incentives Declaratory Ruling*, which addressed a consumer reward program that was based on call minutes.² The item concluded that “any program that involves the use of any type of financial incentives to encourage or reward a consumer for placing a TRS call” violates Section 225.³ The item reasoned that “[t]he fact that any TRS reward or incentive program has the effect of enticing TRS consumers to make TRS calls that they would not otherwise make, which allows the provider to receive additional payments from the Fund, and results in ‘payments’ to consumers for using the service, puts such programs in violation of Section 225.”⁴ The item explained that the obligation placed on TRS providers is to be available to handle calls consumers choose to make, when they choose to make them, and that “[b]ecause the Fund, and not the consumer, pays for the cost of the TRS call, such financial incentives are tantamount to enticing consumers to make calls that they might not ordinarily make.”⁵ The item concluded that “any TRS provider offering such incentives for the use of any of the forms of TRS will be ineligible for compensation from the Interstate TRS Fund.”⁶

2005 TRS Marketing Practices Public Notice

Also in January 2005, CGB released a Public Notice addressing impermissible VRS marketing practices.⁷ This item stated, among other things, that consumers cannot be placed

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2 *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, CG Docket No. 03-123, Declaratory Ruling, 20 FCC Rcd 1466 (Jan. 26, 2005) (2005 Financial Incentives Declaratory Ruling).

3 *Id.*, ¶ 1.

4 *Id.*, ¶ 8.

5 *Id.* The item added that in these circumstances, “TRS is no longer simply ... [a means] for persons with certain disabilities [to access the telephone system], but an opportunity for their financial gain.” *Id.*

6 *Id.*, ¶ 9; *see also Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 20 FCC Rcd 12503 (July 28, 2005) (concluding that offering free or discount long distance service to TRS consumers constitutes an impermissible financial incentive, and that programs “directed at giving the consumer an incentive to make a TRS call in the first place ... are prohibited”).

7 *Federal Communications Commission Clarifies that Certain Telecommunications Relay Services (TRS) Marketing and Call Handling Practices are Improper and Reminds that Video Relay Service (VRS) May Not be Used as a Video Remote Interpreting Service*, CC Docket No. 98-67, CG Docket No. 03-123, Public Notice, 20 FCC Rcd 1471 (Jan. 26, 2005) (2005 TRS Marketing Practices PN).

under any obligation to use only one provider's service, and the fact that they may have accepted equipment from one provider does not mean that they cannot use another provider via other equipment they may have. In addition, a relay provider (or its installers) should not be adjusting a consumer's hardware or software to restrict access to other providers without the consumer's informed consent.”⁸

In addition, the Public Notice stated that apparently “some providers use their customer database to contact prior users of their service and suggest, urge, or tell them to make more [relay] calls.”⁹ The item then concluded that:

This marketing practice constitutes an improper use of information obtained from consumers using the service, is inconsistent with the notion of functional equivalency, and may constitute a fraud on the Interstate TRS Fund because the Fund, and not the consumer, pays for the cost of the ... call. As we have noted, the purpose of TRS is to allow persons with certain disabilities to use the telephone system. Entities electing to offer VRS (or other forms of TRS) should not be contacting users of their service and asking or telling them to make TRS calls. Rather, the provider must be available to handle the calls that consumers choose to make.¹⁰

2007 TRS Declaratory Ruling

In the 2007 TRS Declaratory Ruling, the Commission expressly “reaffirm[ed] the 2005 *Financial Incentives Declaratory Ruling* and the 2005 *TRS Marketing Practices PN*, and reiterate[d] that providers seeking compensation from the Fund may not offer consumers financial or other tangible incentives, either directly or indirectly, to make relay calls.”¹¹ The Commission also specified in greater detail the nature and types of incentive programs that are impermissible:

- Sweepstake giveaways (e.g., the relay user earns chances to win a prize with each call made)

8 *Id.*, 20 FCC Rcd at 1473. Further, in the *VRS Interoperability Declaratory Ruling and FNPRM*, the Commission concluded that “consistent with functional equivalency, all VRS consumers must be able to place a VRS call through any of the VRS providers' service, and all VRS providers must be able to receive calls from, and make calls to, any VRS consumer. *Therefore, a provider may not block calls so that VRS equipment cannot be used with other providers' service. In addition, a provider may not take other steps that restrict a consumer's unfettered access to other providers' service.* This includes the practice of providing degraded service quality to consumers using VRS equipment or service with another provider's service.” *VRS Interoperability Declaratory Ruling and FNPRM*, 21 FCC Rcd 5442, ¶ 34 (emphasis added).

9 *2005 TRS Marketing Practices PN*, 20 FCC Rcd at 1473.

10 *Id.* (internal footnotes omitted). The item also “question[ed] whether there are any circumstances in which it is appropriate for a TRS provider to contact or call a prior user of their service,” given that “the role of the provider is to make available a service to consumers ... under the ADA when a consumer may choose to use that service.” *Id.*

11 *2007 TRS Cost Recovery Declaratory Ruling*, ¶ 92 (emphasis added).

- Sponsorships tied to service usage
- Charitable contributions by a provider based on calls made¹²
- Charitable contributions or other gifts or payments by a provider based on failure to meet specific performance standards (*e.g.*, if a call is not answered within a specific period of time, a contribution will be made to a third party organization)
- Offering financial incentives or rewards to register with the provider, add the provider to the consumer's speed dial list, or to become a provider's "VIP" customer.¹³

The Commission also emphasized that a "financial incentive program is not permissible even in circumstances where the benefit goes to a third party, rather than the consumer making the call, or the program is tied to the consumer giving the provider feedback about the quality of the call."¹⁴ The Commission found that even when the benefit goes to a third party, the program has the intent and the effect of rewarding consumers for making relay calls, as well as giving consumers an incentive to make relay calls that they might not otherwise make. Likewise, the Commission concluded that "tying a reward to making calls *and* responding with feedback about the call does not change the fact that consumers are given an incentive to make calls they might not otherwise make."¹⁵

In paragraphs 95 and 96 of the 2007 TRS Cost Recovery Declaratory Ruling, the Commission¹⁶ also explained that providers "may not use a consumer or call database to contact TRS users for lobbying or any other purpose. The Commission has made clear not only in the *2005 TRS Marketing Practices PN*, but also in the 2000 TRS Order, that TRS customer profile information cannot be used for any purpose other than handling relay calls. Therefore, for example, a provider may not contact its customers, by an automated message, postcards, or otherwise, to inform them about pending TRS compensation issues and urge them to contact the Commission about the compensation rates. Similarly, as noted above, a provider may not use call data to monitor the TRS use by its customers (or the customers of other providers) and to determine whether they are making a sufficient number of calls to warrant further benefits from the provider."¹⁷ In the same vein, the Commission stated that providers cannot condition the ongoing use or possession of TRS equipment (or the receipt of upgraded equipment) on a consumer's call volume: "Not only do such practices likely require the impermissible use of the

12 For example, a promotion where a provider will make a donation to a specific deaf organization each time a consumer makes a call through its service.

13 *Id.*, ¶¶ 92-94.

14 *Id.*, ¶ 93.

15 *Id.*

16 *Id.*, ¶¶ 95-96.

17 *Id.*, ¶ 95.

providers' call database, and the impermissible monitoring of consumers' calls, they also constitute impermissible financial incentives.”¹⁸

May 2008 Declaratory Ruling Regarding Customer Information

To address concerns that paragraphs 95 and 96 of the *2007 TRS Declaratory Ruling* may be overly broad and may prevent TRS providers from communicating important information, including critical public safety information, to TRS users relating to the handling of relay calls, the Commission released a *Declaratory Ruling* in May 2008 that clarified those paragraphs.¹⁹ First, the Commission clarified that the language in paragraphs 95 and 96 restricting the use of consumer information “for any ... purpose” does not prohibit contacts by TRS providers with TRS users that are directly related to the handling of TRS calls.²⁰ Therefore, a provider “reasonably could directly contact relay users (using such customer information) in order to inform users of a service outage, respond to a consumer's call for emergency services, assist in the delivery of emergency services, and provide technical support for TRS products or services used by the consumer.”²¹ On the other hand, the FCC clarified that providers may not use customer information to engage in lobbying or advocacy activities directed at relay users.²² The Commission also reiterated that a relay provider may not use TRS consumer or call data, or similar, privately obtained information, to contact a relay user in an attempt to increase, directly or indirectly, the number or length of relay calls.²³

February 25, 2010 Declaratory Ruling Regarding Billing for Internal Use of Relay

To address the issue of whether relay providers could bill the TRS Fund for calls originated to or from their employees or contractors, the Commission issued a Declaratory Ruling on February 25, 2010.²⁴ In the Declaratory Ruling, the Consumer and Governmental Affairs Bureau (Bureau) addresses the compensability from the Interstate TRS Fund (Fund) of certain types of calls made through Video Relay Service (VRS), a form of Telecommunications Relay Service (TRS). First, the Bureau emphasize that VRS calls made by or to a VRS provider's employee, or the employee of a provider's subcontractor, are not eligible for compensation from the TRS Fund on a per-minute basis from the Fund, but rather as business expenses. Second, the

18 *Id.*, ¶ 94.

19 *Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, FCC 08-138 (rel. May 28, 2008), *pet. for review pending*.

20 *Id.*, ¶ 9.

21 *Id.*, ¶ 9. Providers also may use such customer data, for example, to comply with a federal statute, a Commission rule or order, a court order, “or other lawful authority.” *Id.*

22 *Id.*, ¶ 10.

23 *Id.*, ¶ 13.

24 *Structure and Practices of the Video Relay Service Program*, (Declaratory Ruling), CG Docket No. 10-51, DA 10-314, rel. February 25, 2010.

Bureau emphasize that VRS calls placed for the purpose of generating compensable minutes are not, and never have been, compensable from the Fund. Finally, the Bureau emphasize that two categories of calls do not meet the definition of TRS or otherwise are not compensable from the Fund under plain statutory language: (1) VRS Voice Carry Over used to connect two hearing users and (2) VRS calls used to connect two users who are both outside the United States. Presumably this ruling would apply to other forms of Internet based relay.

TAB D

Compliance Review Request Form

Request for Compliance Review

Department: _____

Date of request: _____

Requestor: _____

Dated compliance review required: _____

Nature of the item for which compliance review is requested: Check all that apply:

- ☐ Marketing, sales or outreach program
- ☐ Change in policy concerning call handling
- ☐ Customer contact program
- ☐ Release of customer or call data
- ☐ Use of third party call center
- ☐ Change in handling of customer complaints
- ☐ Promotional collateral
- ☐ Posting VLOG or video
- ☐ Press or news release
- ☐ Substantial contractual obligation
- ☐ Internal use of relay
- ☐ Change in previously reviewed item

Attach a full written description of the program or item for which Compliance Review is sought. Provide at a minimum: (1) focus and goals of the program; (2) audience of the program; (3) how long it is expected that the program will run; (4) description of any use of relay services in connection with the program either by Miracom or its representatives or expected use of relay to contact Miracom or its representatives; (5) description of use of any third party products, services, names, or trademarks used or third party involvement in connection with the program; (6) economic projections for the program; (7) means by which the program will be evaluated for effectiveness and ROI will be measured; (8) expected cost of the program. Attach any scripts, collateral or emails which are planned to be used or distributed pursuant to the program.

Identify whether this matter is similar to any existing program now being run or previously run by the Company or by any competitor and explain in what ways.

Identify any regulatory or compliance risks you believe or suspect this matter may entail.

Identify all others in the Company with substantial knowledge concerning this matter:

I hereby certify that the information provided herein and on the attached documents is true and correct to the best of my knowledge, information and belief.

Signed: _____